

Maurer School of Law: Indiana University
Digital Repository @ Maurer Law

Indiana Law Journal

Volume 6 | Issue 4

Article 13

1-1931

Treatise on the Law of Sales, by Irving Mariash

Robert C. Brown

Indiana University School of Law

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>

 Part of the [Commercial Law Commons](#)

Recommended Citation

Brown, Robert C. (1931) "Treatise on the Law of Sales, by Irving Mariash," *Indiana Law Journal*: Vol. 6: Iss. 4, Article 13.
Available at: <http://www.repository.law.indiana.edu/ilj/vol6/iss4/13>

This Book Review is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

This new treatise on a subject much written about but of corresponding importance is to be regarded primarily as a reference work for the use of practitioners. It in no way takes the place of such works as that of Professor Williston on this subject and will probably not be of any great value to students. But for the practitioner—especially the New York lawyer—the book will undoubtedly be very useful.

The difficulties for the student who attempts to use the work are somewhat numerous. In the first place it is extremely difficult to read, particularly because of the numerous and very lengthy footnotes. It is not unusual for a single sentence of the text to have four or five references to footnotes. The footnotes themselves consist for the most part of somewhat lengthy excerpts from court decisions, and it is not unusual for a single footnote to extend over several pages. It is, therefore, apparent that the actual amount of reading matter in the footnotes greatly exceeds that of the text. All of this makes the work very poor reading, though, of course, not in any way affecting its usefulness as a book of reference.

Another rather obvious defect from the standpoint of the practitioner as well as of the student is that the work is confined too largely to the law of the state of New York. Most of the references in the footnotes are to New York cases and in a number of instances other references are merely to the National Reporter System without any statement of what state is involved. The author is obviously primarily interested in writing a text book of the New York law of Sales and indeed this intention is rather frankly indicated by having the introduction written by Mr. John Kirkland Clark, who is well known as the Chairman of the New York State Board of Law Examiners. But even this is not a fatal objection to the book from the standpoint of most practitioners, since New York has adopted the Sales Act and so have most of our American jurisdictions—including, of course, Indiana. The New York decisions construing the Act are, of course, of considerable persuasive authority in other jurisdictions particularly such a state as Indiana which is just beginning its experience under the Sales Act.

The text is arranged as a commentary on the Sales Act. The book purports to include the common law as well as the statutory modifications but in fact comparatively little attention is given to the common law phase of the subject. However, for the reasons already indicated this omission is not serious. Due reference is made to, and proper account is taken of, changes in the law made by subsequent uniform acts such as the Conditional Sales Act, the Bills of Lading Act and the Warehouse Receipts Act. All of these statutes, together with the English Sale of Goods Act (some-

what ludicrously referred to in the Table of Contents as the "*Uniform Sale of Goods Act*") and the Federal Bill of Lading Act, commonly called the Pomerene Act, are reprinted in full in the appendix. In section one of the Pomerene Act there is a very serious omission—undoubtedly due to an error in proof-reading—so that the reference of the act to transportation from one state to another is not included. This is rather seriously misleading as the omitted clause covers the most important single application of the act. There are, of course, a number of typographical errors in the book, but no others that the reviewer noted were more than momentarily misleading.

This book has then a somewhat limited scope but within that scope is entitled to commendation. There is very little discussion of controverted points and the work is therefore not likely to have any influence upon the development of this or any other department of the law. But indeed this was not intended. What was obviously intended was to furnish practitioners with a useable text book on the subject from which they could readily obtain the answer to any specific question as to the present law and could also obtain a lead as to the authorities. This purpose seems to be achieved with a reasonable measure of success. The book will certainly not be an epoch-making work but it should fulfill satisfactorily its humbler but useful role as a tool-in-trade of the active practitioner.

ROBERT C. BROWN

Indiana University School of Law.